

**Minutes of the Plenary Meeting held on Thursday 5 June 2014,
Ground Floor Boardroom, Headline Building, Victoria Street, Belfast.**

- Present:**
- The Right Honourable Sir Declan Morgan, the Lord Chief Justice of Northern Ireland (Chairman)
 - The Right Honourable Lord Justice Coghlin
 - The Honourable Mr Justice Stephens
 - Mr Eoin Doyle
 - Mrs Breidge Gadd
 - Mrs Fiona Keenan
 - His Honour Judge Kinney
 - Mr James McNulty QC
 - District Judge (Magistrates' Courts) Rosalie Prytherch
 - Mr Alastair Rankin
 - Professor Nichola Rooney
 - Mr Lindsay Todd
- In Attendance:**
- Mrs Mandy Kilpatrick
 - Ms Adeline Frew
 - Miss Catherine Woods
 - Mr Andrew Millar

Minutes of the Last Meeting

1. The minutes of the meeting held on 10 April 2014 were agreed by the Commissioners and signed by the Chairman.
2. The Commissioners confirmed that there were no conflicts of interest before proceeding with the meeting.

Action Point Update from previous meeting

3. **Action Point:** All Commissioners to check their availability for future plenary meetings.

Update: No concerns raised.

4. **Action Point:** All Commissioners to bring to the June meeting suggested topics for the December and February Plenary meetings.

Update: Addressed at Item 4 of the Agenda.

5. **Action Point:** Commissioners to forward outstanding appraisal comments to the Chairman.

Update: Chairman to complete forms and send to Commissioners to add comments. Action Point carried forward.

6. **Action Point:** The Chairman will write again to OFMDFM regarding the Lay Commission Member appointment.

Update: A letter was sent to Alan Maitland, Director of Human Resources and Corporate Services for the Office of the First Minister and Deputy First Minister (OFMDFM) on 14 April 2014. No formal reply has been received. The Chairman raised the vacancy at the Justice Committee on 4 June. Mr Todd, as Chair of the Audit & Risk Management Committee (ARMC), informed the Commission that the issue had also been raised with OFMDFM at the Committee meeting on 29 May.

7. **Action Point:** Ms Frew to include on the next Joint Liaison Committee (JLC) agenda the use of Survey Monkey to test views.

Update: A survey gathering view of users of the website will be devised over the summer and launched along with new schemes in September. Action Point carried forward.

8. **Action Point:** Ms Frew to include on the next JLC agenda discussion on the use of Role Play, feedback from the County Court Judge Scheme recommendations and the planned survey of the website.

Update: NIJAC are currently consulting with the JLC on the Personal Profiles, a full meeting date is to be arranged for end of August/start of September at which time items will be added to the agenda.

9. **Action Point:** Mr Todd to circulate a paper to all Commissioners on the proposed action plan of the Board Effectiveness Sub Committee in the next few weeks.

Update: Included in today's papers.

10. **Action Point:** Mrs Kilpatrick to review last year's Board Effectiveness Questionnaire template to make it more NIJAC specific.

Update: Complete, sent to Commissioners on 1 May.

11. **Action Point:** All Commissioners to complete and return the 2013-14 Board Effectiveness Questionnaires within the agreed timescale and complete the comment boxes in the Questionnaire.

Update: Addressed at Item 9 of the Agenda.

Chief Executive's Update

12. Mrs Kilpatrick presented the Chief Executive's Update at Flag B.

13. ***Business Plan Objectives***

The Policy Committee is holding a full day meeting on 11 June to develop the Plan of Action to deliver best practice in judicial appointments over the next 2 years as driven by the 2014-17 Corporate Plan. All Committee's have agreed Plan of Work to meet 2014 – 15 Business Plan commitments.

14. ***2014-15 Business Plan***

On 21 May, Mrs Kilpatrick received a letter from Mark Browne, Deputy Secretary, OFMDFM, requesting a commitment to effective management of our property assets through involvement in the preparation and monitoring of the Departmental Asset Management Plan is included in our Business Plan. The Commission gave their approval; the 2014-15 Business Plan will be updated on the NIJAC website to reflect the change.

15. *Working with others*

Miss Woods attended the Department of Justice planning meeting with Ms Frew and Mr Millar to ensure the link between scheme timetables and funding is realised, following the 2013-14 under spend of NIJACs budget as a result of delays in scheme documentation. The Memorandum of Understanding (MOU) is being revised to tighten timelines of schemes.

The meeting due to take place on 3 June with John Keanie, Public Appointments Commissioner, to discuss his recent report 'Under-representation and lack of diversity in public appointments in Northern Ireland', has been rescheduled to 24 June.

Mrs Kilpatrick and Ms Frew had a constructive meeting with David Mulholland, the new Chief Executive of Bar Council on 15 April while discussing current initiatives and building working relationships.

16. *Budget*

On 8 May, OFMDFM issued a provisional 2014/15 NIJAC Budget allocation of £1,257,000. This is subject to ministerial approval.

17. *Implementation of the New Government Security Classification Scheme*

There is a new security classification which applies to both paper and electronic information. All of our work will be conducted at OFFICIAL level and will not carry a protective marking. Commissioners and staff will no longer see documents marked 'PROTECT'. This is not a 'downgrade', merely a change in the way documents are marked. All documents are deemed to be OFFICIAL unless otherwise stated.

Miss Woods explained further the duty of confidentiality and personal responsibilities to safeguard any information that is entrusted to NIJAC. Miss Woods advised that to restrict access to information to those who need to know, proportionate Information Technology (IT) access controls (passwords, personal folders, etc.), supported by procedural (e.g. secure papers) and personnel controls (e.g. locking personal computer screens, locking cupboards where papers are held etc.) should be used. Covering emails should either note that the papers attached are password protected and/or set out that they contain sensitive information for addressees only and shouldn't be copied further; the do's and don'ts list presented at the Plenary in April was also referred to.

18. *Commissioner Training – Data Protection*

A Data Protection training DVD from the Information Commissioner's Office was distributed to all Commissioners at the meeting.

Action: All Commissioners to complete the Data Protection training (DVD)

Themes for Plenary

- 19.** The Justice Committee have been invited to attend the afternoon session of the Plenary in February 2104. The Chairman indicated that he had suggested to the Justice Committee an arrangement whereby the Northern Ireland Judicial Appointments Ombudsman (NIJAO) carried out a 'best practice' review of NIJAC procedures.

20. Plenary Themes contained in Paper C5/14 were discussed. Presentations should be made jointly by a Commissioner, appropriately supported by staff. When identifying outside visitors to the Themed meetings we must ascertain (1) their value to the discussion, and (2) their value to NIJAC. In the October meeting, the Commission will plan what themes will be covered in the April and June 2015 meetings based on the suggested themes contained in the paper. Commissioners should indicate their 1st, 2nd and 3rd choice and also the external person/s whom they feel should attend each themed presentation.

Action: Senior Management Team to request Commissioners' 1st, 2nd and 3rd Theme choices and suggested external attendees.

Complaints Policy

21. The Commissioners discussed paper C6/14. Policy Committee to consider:
- The situation when the Lord Chief Justice, Chair of the Commission, is a member of the Selection Committee.
 - Mechanism for discretion.
 - Timescales where a scheme is ongoing.
 - Communication to other candidates, keeping candidates informed.
 - Mechanism for accepting a complaint.
22. Commissioners were asked to send any other points to Ms Frew on the Complaints Policy which they wish the Policy Committee to consider.

Action: Commissioners to email their thoughts/views of the Complaints Policy to Ms Frew for consideration by Policy Committee.

23. Mrs Kilpatrick and Ms Frew had consulted the NIJAO's to review the Memorandum; the discussion had addressed timescales in handling complaints and a target of aiming to respond within a 3 month period was agreed. The Commission feel this could be reduced.

Action: Mrs Kilpatrick and Ms Frew to approach the NIJAO with an aim of reducing the 3 month timescale to deal with complaints.

2013-14 Annual Report and Accounts

24. Miss Woods presented the 2013-14 Annual Report and Accounts to Plenary. The Management Accounts, which make up the Annual Accounts, are reviewed by the Business Committee at each meeting who have raised no concerns. The ARMC have reviewed and approved the Governance Statement within the Annual Report and will present their Annual Assurance Report later in the meeting today.
25. Mrs Keenan referred to the statistical data in relation to appointments contained in the annual report. Ms Frew confirmed the data in the Annual Report related met a statutory requirement but that additional information is contained in other NIJAC documents e.g. the annual 'The Judiciary in Northern Ireland Equity Monitoring Report' written on NIJAC's behalf by the Northern Ireland Statistics and Research Agency (NISRA) and published on the NIJAC website. It was noted administrative performance indicators on scheme timetables are being developed as part of the work contained in the 2014-15 Business Plan.
26. Professor Rooney suggested the 'Appendix 2 Diversity Statistics', be reported in a consistent way i.e. all Combined.

Action: Ms Frew to revise the format of 'Appendix 2 Diversity Statistics' in the Annual Report.

27. Mr Doyle pointed out a typo in the 'Membership of Committees' section, these should read 2014 and not 2013.

Action: Miss Woods to amend the typo in the 'Membership of Committees' section.

28. The Plenary approved the release of the 2013-14 Annual Report and Accounts to the Northern Ireland Audit Office (NIAO) on 27 June following the above amendments. The Annual Report and Accounts will be circulated by email to the Plenary again in September after the NIAO audit has been completed and before Mrs Kilpatrick, as Accounting Officer, signs the document.

2014-15 Risk Register

29. Mrs Kilpatrick presented the 2014-15 Risk Register, noting that consideration of whether 'reputational damage' should be included in the risk register was referred by Business Committee to the ARMC on 29 May. The ARMC noted 'reputational damage' as an outcome of a risk and not a risk in itself. ARMC were content that as Internal Audit have reviewed the minutes of the Senior Management Team 2014-15 Risk Register meeting on 17 April, setting out the process used, that the Risk Management process of identification of risks was being correctly followed.

30. The Risk Register was approved by Plenary.

Senior Appointments Review Team (SART) Update

31. Professor Rooney gave an update on the work of SART. SART have consulted with the presiding judges and further correspondence has been exchanged with the Bar Council and Law Society.

32. The JLC and the presiding judges are to be invited to the October Plenary session to discuss Personal Profiles. The session is to consist of a paper and a presentation. Papers are to be sent out to Plenary at least 2 weeks in advance of the meeting.

Action: An invite is to be sent for the October Plenary before the summer recess.

Action: Plenary Theme papers to be circulated 2 weeks in advance of the meeting.

Appeals Tribunal (Legal) Evaluation

33. Mr Rankin presented Paper C9/14. The scheme is virtually finished with only the conflicts of interest to be completed. Due to the unexpected high volume of applicants and the complaint, the scheme took longer than anticipated to run.
34. Discussions followed on how the proportion of applicants interviewed to number of posts are determined. The scheme highlighted the issues of high volume schemes combined with a large number of posts, and possible methods to adapt e.g. use of tests, short listing methods, etc. The Policy Committee will address these issues as part of the work on the Plan of Action contained in the 2014-15 Business Plan. A prioritised plan will be brought to plenary for approval in October.
35. Conducting Conflict of Interest meetings in person, by phone or by post/email was discussed. It was agreed that for this scheme Conflict of Interest will be conducted by post/email and the Commission will consider this option for other schemes going forward.

Master (Chancery) Scheme Update

36. His Honour Judge Kinney presented Paper C10/14. This is a live scheme, role-plays and interviews are currently taking place.

Mental Health Review Tribunal (Medical) Scheme Update

37. Professor Rooney presented Paper C11/14. Offers of appointment have been made; Mrs Anderson will compile a full evaluation report for October's Plenary.

Criminal Injuries Compensation Appeal Panel (Medical) Scheme Update

38. Professor Rooney presented Paper C14/14¹. A paper sift was introduced due to numbers of applications exceeding expectations; the holistic marking approach was considered very suitable. There were some administrative issues that need to be addressed; scheme feedback will be presented in more detail in the full evaluation at October's Plenary.

Mental Health Review Tribunal (Legal) Scheme Update

39. Mr Rankin presented Paper C12/14. A multiple choice test is to be used to shortlist for the assessment and selection stage; the test will be validated in London. The test will take place on the date that was originally notified to candidates as the interview date. Some candidates were unable to keep these dates free.

¹ Two typing errors to be corrected: 2013 in lieu of 2014 and 12 rather than 14 applicants at Assessment stage.

Board Effectiveness

- 40.** Mr Todd presented Paper C15/14. A number of the issues raised in the 2012-13 report have been resolved or are being addressed in 2014-15 by:
- The new arrangements for Plenary, including involvement of key stakeholders;
 - the review of Terms of Reference and the Concordat between Commissioners and staff, and
 - a revised training schedule for Commissioners and Co-Opted members.
- 41.** The Board Effectiveness Sub Committee therefore suggests that a line is drawn under the feedback from 2012-13 questionnaires with outstanding areas captured with issues arising from the 2013/14 responses in the development of Board Development Plan.
- 42.** Areas arising from the 2013-14 Board Effectiveness Questionnaires include ensuring all Board members have a good understanding of the different risks inherent in our business activities. There was some uncertainty around the sources of assurance and the role of Commissioners and the Board. In this context attention is also required to ensure there is an understanding of the balance between the monitoring role of the Board and it being an “influencer for good”.
- 43.** Other areas flagged included active involvement with external stakeholders and ensuring there are open channels of communication to facilitate the surfacing of issues.

44. Plenary were asked for volunteers to sit on the Sub Committee going forward. Going forward the Sub Committee members are Mr Todd, as Sub- Committee Chair, Mrs Keenan, His Honour Judge Kinney and Professor Rooney.
45. It was agreed that a draft development plan will be presented at the December Plenary by the Board Effectiveness Sub Committee.

Action: The Board Effectiveness Sub Committee to present a draft Board Development Plan at the December Plenary.

Annual Reports and Updates from Chairs of the Committees

Policy Committee

46. Lord Justice Coghlin, as Chair of the Policy Committee, gave a brief overview of the May committee meeting which primarily addressed the work plan for 2014-15 including:
- feed-back from Co-opted members and
 - an evidence based approach to developing policies.
47. In addressing the annual review of the Committee he noted they have:
- Reviewed the Annual Review of Diversity and Communications core activity and the forward looking Research Informed Programme of Action.
 - Embedded an ethos of continual improvement; feedback is sought from the legal and other professions and evaluation of schemes is shared by Selection Committee Chairs with Plenary.
 - Monitored NIJAC policies and procedures on an ongoing basis to ensure they are regularly reviewed and updated. For example, this year a number of new and revised policies were developed and implemented such as the Disclosure Certificate Policy, Character

Policy, Constitution of Selection Committees, Complaints Policy and Investigation Procedure.

48. In Lord Justice Coghlin's opinion, as Chair of the Policy Committee, there is a good ability of members within the Committee who work well together.

Audit and Risk Management Committee

49. Mr Todd, as Chair of the ARMC, presented the ARMC Annual Assurance Review. The paper was circulated by email to all Commissioners prior to the meeting.

50. For the past year (2013-14) the Committee has reviewed the strategic processes for risk, control and governance by considering:

- Quarterly Stewardship Statements
- Risk Registers
- Fraud Returns
- Dear Accounting Letters
- Complaints Register and handling
- Contracts List
- Governance Statement
- The quarterly Corporate Performance Report to the OFMDFM Departmental Board on NIJAC.
- 2013-14 Internal Audit Plan and results of 3 Internal Audit Reviews.
- Raised the Commissioner Vacancy with the OFMDFM representative at each meeting.
- Whistle blowing at each meeting – none during 2013-14.
- Reviewed and approved the 2012-13 Annual Accounts and Governance Statement.
- Business Continuity Plan testing and improvement recommendations.

- 2012-13 Audit Strategy and Audit Fees from the Northern Ireland Audit Office (NIAO).
- 2012-13 Report to those Charged with from the NIAO.
- Considered and approved the continued use of the Central Procurement Directive (Centre of Excellence).
- Reviewed and approved the Internal Audit Specification for the re-tendering of the Internal Audit Services Contract.
- Reviewed information on the process of agreeing Terms and Conditions for judicial office.
- Raised the Dear Accounting Officer Letter -Payment of Remuneration (Honorarium/fees) and travel and subsistence expenses to non-executive appointees with OFMDFM.

- 51.** It is the view of the ARMC that NIJAC has effective governance, risk management and control processes in place that are adhered to.
- 52.** The Audit Assurance Report from the Head of Internal Audit was presented at the May 2014 Committee meeting; in the opinion of Internal Audit during 2013/14, NIJAC's systems in relation to risk management, control and governance were operating effectively thereby providing substantial assurance in relation to the effective and efficient achievement of NIJAC's objectives. Only 2 of the approximately 20-30 internal audits of other organisations carried out by our internal auditors received a substantial assurance during 2013-14.
- 53.** The ARMC reviewed its own effectiveness at the May meeting using the National Audit Office Audit Committee Checklist and found itself to be effective.

54. Mrs Gadd requested copies of the internal audit reports.

Action: Miss Woods to issue copies of reports to Mrs Gadd; Commissioners who want a copy of the internal audit reports for 2013-14 are to email Miss Woods.

Business Committee

55. Mrs Gadd, as Chair of the Business Committee, gave a brief overview of the May committee meeting and set out that over the past year the Committee had:

- Monitored the 2013/14 Business Objectives
- Approved the 2014/15 Business Plan
- Approved the 2014-17 Corporate Plan
- Monitored risks
- Monitored financial performance against the Budget
- Approved Outreach plans for schemes and schemes being run.
- Oversight of the staffing situation
- Approved the Timetable of Commission Meetings (April 2014 – March 2015)

56. To enhance budget management the Business Committee will be monitoring the late submission of Commissioner Fees and Expenses and following up with the individuals. A review of the Committee's terms of reference is being conducted over the summer and the findings will be considered in the new term.

57. It is Mrs Gadd's view as Chair of the Business Committee that the Committee have achieved much in the past year. The corporate and business planning process has informed our future direction and should provide a structure that will help us to achieve our commitments going forward.

58. Mrs Gadd expressed her full support of the concept of the NIJAO conducting a review of NIJAC's appointment processes and procedures.

Justice Committee Update

59. The Chairman updated the Commissioners on his appearance before the Justice Committee on 4 June.

Correspondence

60. Correspondence has been received from a candidate in a 2012 scheme. Mr Todd is currently conducting a 'fact finding' piece of work to inform the Commission.

Signed

.....
The Right Honourable Sir Declan Morgan, the Lord Chief Justice of Northern Ireland, Chairman of the Northern Ireland Judicial Appointments Commission

Dated

.....